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AICPA *Washington Report*

May 28, 1984, Volume XIII, Issue 14

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CIVIL AERONAUTICS BOARD

A booklet intended to assist small airlines in setting up internal accounting procedures has recently been published by the CAB. "Voluntary Accounting Systems," shows small airlines not subject to CAB financial filing requirements how to set up their own internal systems. According to CAB Chairman Dan McKinnon, the booklet is an attempt by the Board to share with new airlines its decades of experience in dealing with airline financial reports. "These suggested systems are designed to be flexible, so that they may be expanded into more sophisticated systems with a minimum of cost and effort. Our objective is to provide a guide to aid the development of small carrier accounting systems," Mr. McKinnon said. The booklet describes methods of setting up balance sheets, profit and loss accounts, key statistical ratios for management analysis and evaluation, and methods to calculate various traffic statistics. The booklet may be obtained by writing CAB, "Voluntary Accounting Systems," B-52, Washington, DC 20428.

FARMERS HOME ADMINISTRATION

Regulations to prescribe policies for servicing cases where an unauthorized loan or other financial assistance was received have been proposed by the FmHA (see the 5/23/84 Fed. Reg., pp. 21744-62). All of FmHA's programs will be covered by the proposals which will also amend portions of existing regulations that deal with unauthorized interest credits and loans and grant assistance. Comments are requested by 7/23/84. For additional information contact Frances Calhoun at 202/382-1452.

FEDERAL DEPOSIT INSURANCE CORPORATION

Amendments to the International Banking Act regarding asset pledge and asset pledge requirements has recently been proposed by the FDIC (see the 5/16/84 Fed. Reg., pp. 20714-19). Under the proposal, the asset pledge would be modified with respect to the amount required and the elimination of the allowance of credit for any other pledge-like transaction to a state or to the Comptroller of the Currency. There would be no asset maintenance rule. Instead, a minimum capital equivalency ledger account would evidence finding of the branch by the parent bank. With respect to both the asset pledge and the capital equivalency ledger account, certificates of deposit would be included only if there is a valid waiver of offset agreement. Additionally, proposed are regulations addressing concentrations of transfer risk. Comments are requested by 7/2/84. For additional information contact Hugh Conway at 202/289-4345.

SECURITIES AND EXCHANGE COMMISSION

Persons associated with an issuer of securities who participate in a sale of those securities would not, under certain circumstances, be deemed "brokers" as defined in Section 3(a) (4) of the Exchange Act, according to a rule recently approved for reproposal by the Commission (see the 5/15/84 Fed. Reg., pp. 20512-17). The rule, the so-called "issuer's exemption" rule, was originally proposed in 1977. The repropounded rule sets forth those circumstances under which an issuer's employees could participate in the sale of the issuer's securities without being required to register as broker-dealers. Comments are requested by 6/29/84. For additional information contact Susan J. Walters at 202/272-2848.

"In a very real sense, accounting is what the Commission is all about," according to SEC Commissioner James C. Treadway, Jr. in a 5/11/84 address before the SEC and Financial Reporting Institute, University of Southern California, Los Angeles. Responding to comments that the SEC's interest in accounting matters over the past two years has become "quite visible," Mr. Treadway stated that, "Financial statements are the foundation of our disclosure system. If their integrity is undermined because they are inaccurate or distorted, the entire disclosure process is corrupted." He went on to discuss "cooked books" and the corporate environment, "cute accounting," professionalism and the obligations of auditors, the relationship between the integrity of financial statements and the disclosure process, the standard setting process, and specific financial reporting requirements. In the area of issuers' obligations of candor with auditors, Commissioner Treadway turned to the recent U.S. Supreme Court ruling in United States v. Arthur Young (see the 3/26/84 Wash. Rpt.). In this case, the Court unanimously decided that tax accrual workpapers prepared by a corporation's independent certified public accountant in the course of regular financial audits are not protected from disclosure in response to an IRS summons issued under Section 7602 of the Internal Revenue Code of 1954. Commissioner Treadway remarked: "Whatever discomfort this decision may cause, public companies are nonetheless required to maintain candid communications which will permit auditors to satisfy themselves about the tax accrual and express an unqualified opinion. That may be uncomfortable, but a public company cannot avoid its obligation of full and complete disclosure. That must take precedent over tax strategy."

Proposed amendments which seek to permit self-regulatory organizations to submit to the Commission plans specifying the circumstances under which certain minor disciplinary infractions would not be reported to the Commission will be considered at a 5/31 SEC open meeting. Another matter to be discussed at the meeting is consideration of whether to recommend that Congress enact legislation which would facilitate Commission investigations of securities transactions made in the U.S. markets from abroad. The meeting is scheduled to begin at 10 a.m. in Room IC30, 450 Fifth Street, N.W., Washington, D.C. For additional information contact Judith Levy at 202/272-7345.

As a result of 3/28/84 hearings held by the House Energy's Subcommittee on Telecommunications, Consumer Protection and Finance, the SEC has forwarded to Congress a legislative proposal on tender offers. The measure, if approved, will implement recommendations of the Commission's Advisory Committee on tender offers. Contained in the 5/21 proposal is a limitation on the use of "golden parachutes," which are the increases in executive compensation during specified tender offers, as well as an amendment to the Securities Exchange Act of 1934 to prohibit during specified tender offers increases in the compensation of officers and directors of a target company and certain defensive repurchases and issuances of securities. Further, the amendments limit certain repurchases of securities at prices above the existing market price, the so-called "greenmail." Finally, the SEC proposal revises Section 13d of the Exchange Act to permit the Commission to require immediate public announcement of a significant acquisition of securities, to specify the time period for filing the 13d and to restrict the acquisition of additional securities for a period not to extend beyond the second business after the filing. The subcommittee has not yet scheduled hearings on the proposal.

TREASURY, DEPARTMENT OF

Federal tax reform public hearings will be held in eight cities in June 1984, according to Treasury Secretary Donald T. Regan. According to the Secretary, "Those who are most frustrated with the present complex system, the American wage earner and small business person, as well as others, should have the opportunity to make their ideas known to the Treasury Department." The hearings will be held in Atlanta on 6/20, Houston on 6/8, Los Angeles on 6/12, Minneapolis/St. Paul on 6/19, New York City on 6/25, Springfield, IL on 6/28, and Washington, D.C. on 6/6 and 6/26/84. The Treasury Department's recommendations for tax reform will go to the President in December, as requested in his State of the Union Address last January. Those wishing to testify should write to the Treasury Tax Reform Study, Department of the Treasury, P.O. Box 299, Washington, D.C. 20044. For additional information contact Charles Powers at 202/566-2041.

Backup withholding applies to other reportable payments as well as interest, dividends and patronage dividends, according to a recent IRS press release, (IR-84-61). The backup withholding requirement is intended to make certain that payers are aware of their obligations, and applies to rents, nonemployee compensation, and other payments that payers make in the course of their trade or business. Additionally, transactions by brokers and barter exchanges are subject to backup withholding. The IRS noted that backup withholding at a 20 percent rate applies to these payments when a payee fails to provide a taxpayer identification number (TIN) to the payer in the required manner. For additional information contact the IRS Public Affairs Division at 202/566-4024.

Rules allowing deductions against estate and gift taxes when works of art are donated to charity but the applicable copyrights are retained by the donor have recently been approved by the IRS. The regulations, which implement 1981 tax act provisions, allow an artwork and its copyright to be treated as separate properties. The tax code does not allow a deduction from the gift or estate tax for a charitable contribution unless all interest in the donation are simultaneously transferred to a single charity. Under previous rules, artwork and copyright interests were considered separate interests in the same property and no deduction was available when the art was donated to charity, but the copyright was retained. The rules are effective for donations from estates of decedents who died after 12/31/81, and for gifts made after that date. They do not affect the treatment of contributions for purposes of the deduction available under the income tax rules. For additional information contact Robert B. Coplan at 202/566-3287.

Determination letter statistics for various employee benefit plans for the period January through December 1983, have been released by the IRS in IR-84-62. The statistics apply to determination letters issued to plans with regard to their qualified status under the Internal Revenue Code. The statistics are categorized into defined contribution plans, which include stock bonus, money purchase, profit sharing, target benefit and employee stock ownership plans. The plans cover common-law and shareholder employees as well as self-employed individuals. The IRS noted that the statistics reflect only those determination letters issued by employee plans/exempt organizations divisions in key district offices. They do not include figures for plans of self-employed individuals who have adopted prototype plans previously approved by the IRS National Office nor can they be used to compute the total number of plans in existence. For additional information contact the IRS Public Affairs Office at 202/566-4024.

Lessors of oil and gas properties who receive bonuses or advance royalties generally will be allowed to deduct percentage depletion on those amounts in the year the amounts are includible in gross income, according to a recent IRS press release IR-84-64. The announcement was made in light of the U.S. Supreme Court decision in Commissioner v. Engle. In the Engle decision, the Supreme Court held that the percentage depletion rules which were added to the law in 1975 did not bar percentage depletion on bonus and advanced royalty payments. The IRS pointed out that lessors must convert bonuses or advance royalties to barrels of production, in order to apply the barrel limitations on depletion. This conversion will usually be based on representative market or field prices. The depletion deduction will continue to be required to be restored to income in certain cases if there is not any, or insufficient, production from the property. The announcement will be implemented by regulations which will apply to lease bonuses and advance royalties includible in income after 12/31/74.

SPECIAL: FINANCIAL INTEGRITY ACT SUBJECT OF HOUSE HEARING

Implementation of the Federal Manager's Financial Integrity Act of 1982 was the focus of a hearing on 5/22/84 by the Government Operations Subcommittee on Legislation and National Security. According to Comptroller General Charles Bowsher, the agencies "by and large did a good job" implementing the policies of the Act. He continued by saying there was not "the guidance out there necessary for full implementation of the accounting systems," but that he was hopeful that situation would be rectified in the second year. According to Mr. Bowsher, the material weaknesses found in the agencies fell into eight areas: accounting and financial management systems; eligibility and entitlements; grant, loan and debt collection management; procurement weaknesses; property management; automated data processing; cash management; and, personnel and organizational management. Suggestions to strengthen agencies' second year efforts to implement the act include the need to prepare adequate documentation for vulnerability assessments and internal control reviews; better train managers to implement the process; more thoroughly consider ADP controls in agency evaluations; and, increase efforts to evaluate accounting systems. Further, the Comptroller feels the first year's implementation of the Act, in highlighting the magnitude of the government's weaknesses in internal control and accounting systems, underlines the need for the government to make a major effort to rebuild its programming, planning, budgeting and accounting structure. This effort should stress: strengthened accounting, auditing, and reporting; improved planning and programming; streamlined budget process; and, systematic measurement of performance. Mr. Bowsher noted there is a two volume report on this issue, in draft form, that should be available by June 1984.

For additional information please contact, Gina Rosasco, Nick Nichols, Stephanie McCarthy, or Kathee Baker at 202/872-8190.

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